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INFO MEMO "ELECTION SPECIAL"

NO III

THE EUROPEAN PARLIAMENT'S INFLUENCE ON COMMUNITY POLICY AS SHOWN THROUGH THE WORK OF ITS COMMITTEES

Third term of office 1989 - 1994

I. COMMITTEE ON INSTITUTIONAL AFFAIRS

II. COMMITTEE ON PETITIONS

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PARLEMENT



EUROPEEN

The third issue of Info Memo (the 'Election Special') deals with a new subject - the impact of the European Parliament on Community policy. We shall be using a number of examples to show that the EP has indeed influenced the Council's decisions. The report has been prepared in close collaboration with the parliamentary committees.

We shall be publishing a Committee-by-Committee account which will aim to show the influence which the EP has had on Community policy by describing what has been achieved by the committees.

In the case of each committee there will be a two-page introduction by the Chairman, followed by 5 to 6 pages of specific examples.

I. THE EP'S IMPACT ON INSTITUTIONAL AFFAIRS AS SHOWN IN THE WORK OF THE COMMITTEE ON INSTITUTIONAL AFFAIRS

I. INTRODUCTION BY THE COMMITTEE CHAIRMAN, Mr José Maria GIL-ROBLES DELGADO (PPE, E)

The third term of office of the European Parliament, which is directly elected by universal suffrage, has been marked by intense activity in the field of institutional affairs.

The political context at the beginning of Parliament's term of office was dominated by the fall of the Berlin Wall and the collapse of the Soviet bloc. The subsequent unification of Germany was also to influence the process which would ultimately lead to the Maastricht Treaty.

Right at the beginning of this term of office the Institutional Affairs Committee proposed to Parliament that it adopt a dual strategy with regard to the developments which were bound to take place in Europe.

The first strand of this strategy concerned the preparation of Parliament's position regarding the negotiations on the Treaty on European Union.

Parliament proposed to the Intergovernmental Conference on Political Union a number of substantial changes to the EEC Treaty which would have enabled very significant progress to be made in the development of Europe.

The report by Mr D. Martin (PSE-UK), adopted on 22 November 1990, made a number of detailed proposals.

The second strategy adopted by Parliament was focused on the more distant future, for which a longer-term constitutional structure needed to be planned in the interests of a more integrated Europe.

Mr Colombo (PPE-I) was the initial rapporteur on the draft Constitution and proposed to Parliament that it define the constitutional basis (interim resolutions of 11 July 1990 and 12 December 1990).

On the subject of the preparatory phase of the work leading up to the Maastricht Treaty, it should be mentioned that Parliament's position on specific subjects was set out in the following reports: Mrs Aglietta on parliamentary assent (25 October 1990), Mrs Bindi on citizenship (21 November 1991), Mr Bourlanges on the nature of Community acts (18 April 1991), Mrs Cassanmagnago Cerretti on the Economic and Social Committee (21 November 1991), Mr Duverger on Parliament's relations with the national Parliaments (10 October 1991), Mr Giscard d'Estaing on subsidiarity (21 November 1990) and Mr Roumeliotis on the powers of the Commission (13 December 1990).¹

¹ For Economic and Monetary Union, see the report by Mr Herman prepared by the committee responsible.

The Treaty on European Union, adopted on 7 February 1992, incorporated a number of the European Parliament's proposals on citizenship, the strengthening of democratic legitimacy, and subsidiarity, among other things.

Parliament's expectations of the Treaty, and its criticisms of its shortcomings, were summed up in the report by Mr D. Martin, adopted in plenary on 7 April 1992. In this resolution Parliament records its satisfaction with the progress achieved, as well as voicing criticism of those parts of the Treaty which, in its view, were not sufficiently improved.

Parliament's influence was increased by the fact that an institutional innovation was introduced for the process of drafting and implementing the Treaty.

A preparatory Interinstitutional Conference, made up of the Council, the Commission and Parliament, met on about ten occasions during 1990 and 1991 to discuss both Political Union and Economic and Monetary Union. This enabled Parliament to make its institutional proposals directly to those negotiating the Treaty and to convince them, on some occasions, of the rightness of its views.

At an Interinstitutional Conference held on 25 October 1993 the European Parliament was able to negotiate interinstitutional agreements relating to transparency and subsidiarity (report by Mr Oreja, PPE-E), the Ombudsman (report by Ms Bindi, PPE-I) and the codecision procedure (report by Mr Bru Puron, PSE-E).

The interinstitutional negotiations on ad hoc committees of inquiry are under way (report by Mr Musso, RDE-F). The European Parliament has also called for interinstitutional agreements to be negotiated on EMU, the CFSP, cooperation in the fields of justice and home affairs (report by Mr Roumeliotis, PSE-GR) and comitology (report by Mr De Giovanni, PSE-I).

In the context of the widening and deepening of the European Union, the European Parliament adopted a report by Mr Hänsch on 20 January 1993 on the structure and strategy for the European Union with regard to its enlargement and the creation of a Europe-wide order.

In a resolution of 17 November 1993, based in its institutional aspects on the opinions by Mr Bourlanges and Mrs Dury and relating to the enlargement negotiations, Parliament reaffirmed the absolute necessity for institutional adaptation if the Union was to function. The measures required concern, *inter alia*, an improvement in the system of voting by qualified majority in the Council and the replacement of unanimity with a superqualified majority.

With regard to the uniform electoral procedure, Parliament adopted the report by Mr De Gucht (10 March 1993) and, a few months earlier, a report on the number of seats in the European Parliament in the light of German unification and enlargement. The Council adopted the numbers proposed by the European Parliament unchanged.

On the subject of voting rights in and eligibility for European Parliament elections, in a resolution of 17 November 1993 Parliament adopted the report by Mr Froment-Meurice, enabling the Council of 6 December 1993 to finalize the proposal for a directive which will allow any citizen of the Union who so wishes to vote and stand as a candidate in European Parliament elections in his Member State of residence.

On 10 February 1994 the European Parliament noted with satisfaction the work of the Institutional Affairs Committee (report by Mr Fernand HERMAN, PPE-B) in preparing a draft Constitution of the European Union and called for the work on the Constitution to be continued and elaborated during Parliament's coming term of office.

THE IMPACT OF THE EUROPEAN PARLIAMENT IN INSTITUTIONAL AFFAIRS

The summary by the Chairman of the Committee on Institutional Affairs of the political achievements of the European Parliament in the area of institutional affairs is followed by:

- a synopsis of all the new powers of the European Parliament set out in the Treaty on European Union,
- a document giving precise details of their areas of application and two tables relating to the procedures set out in Articles 189B (codecision) and 189C (cooperation).

As early as 23 November 1989 Parliament, wishing to make known its point of view on the new treaty, adopted a resolution calling for an interinstitutional conference to be convened, to be attended by Parliament, the Council and the Commission.

A dozen such preparatory interinstitutional conferences were held between May 1990 and December 1991. One thing is certain: they provided an opportunity for genuine dialogue between the negotiators and the EP and had a positive influence on the Member States, which were unwilling to entertain the notion of wider powers for the European Parliament. Their position changed as a result of the mutual confidence which was established.

Finally, in order to facilitate implementation of the Treaty, interinstitutional agreements were signed by the EP, the Council and the Commission. They concern issues (see II) relating to improved functioning of the Institutions and greater democratization of the decision-making processes.

I. THE SUBSTANCE OF THE TREATY ON EUROPEAN UNION

1. CITIZENSHIP

The European Parliament, wishing to give genuine legal content to European citizenship, called in the report by Mrs Rosy BINDI (PPE, I) for the introduction of citizenship of the Union, consisting mainly of the right to vote and to stand in European Parliament elections and in municipal elections in the Member State of residence.

The EP has welcomed the institution of a European ombudsman, which will give citizens access to an arbitration system of the kind which already exists in some of the Member States. It also wanted the right of Parliament to set up committees of enquiry, as well as the citizen's right to petition Parliament, to be recognized in the Treaty.

Following the negotiations between the EP and the Intergovernmental Conferences, these proposals were incorporated in the Treaty on European Union (Articles 8b, 138c, 138d and 138e).

Finally, the Treaty recognizes the role played at European level by the political parties (Article 138a) when it states that they 'contribute to forming a European awareness and to expressing the political will of the citizens of the Union'.

2. STRENGTHENING DEMOCRATIC LEGITIMACY

a) Democratic legitimacy conferred on the Commission by the EP

The Treaty also follows the wishes of the EP when it states that the Commission must have a democratic legitimacy which only the Parliament can give it. Article 158 of the Treaty gives the EP the right to approve the appointment of the Commission and brings the length of Parliament's term of office into line with the lifetime of the Commission (5 years). The procedure takes place in two stages: the Governments of the Member States, 'after consulting the European Parliament', nominate the person they intend to appoint as President of the Commission. Then, 'in consultation with the nominee for President', they nominate the persons they intend to appoint as members of the Commission. Finally, the President and the other members of the Commission thus nominated are subject to 'a vote of approval by the European Parliament'. The final appointment by the Member States takes place only after this vote.

This power of investiture complements the power to pass a motion of censure.

b) The European Parliament and the legislature

One of the great battles in which the European Parliament has engaged was that to obtain the power of codecision. During the negotiations Parliament asked for the role of co-legislator on an equal footing with the Council for all legislative acts adopted by a qualified majority. The procedure set out in Article 189b of the Treaty on European Union does not give the EP a truly equal share of power with the Council, limiting its scope to about fifteen areas. It invests very important powers in the European Parliament (see the section on the areas of power of the EP, and the tables).

The European Parliament, as it wished, is also granted certain powers to initiate legislation (Article 138b).

c) Increasing the number of areas on which the Council votes by a qualified majority

Parliament was in favour of extending the scope of voting by qualified majority to cover all Community legislative acts. It achieved this to a certain extent as a result of the application of the codecision procedure to the areas described below.

3. GREATER DECISION-MAKING POWERS FOR EUROPEAN CITIZENS

a) The subsidiarity principle

After long discussions on the nature and implications of this principle, Article 3b of the Treaty incorporates almost exactly the definition of subsidiarity proposed by the European Parliament. The EP was able to ensure that Union action was not deprived of all its significance in many areas and that national and Community actions complemented each other.

b) The Committee of the Regions

A Committee of the Regions, a consultative body made up of representatives of regional and local bodies, is established by Articles 198a, b and c.

c) The national parliaments

The national parliaments are called upon to monitor more closely the decisions of their governments at European level and to cooperate with the EP, particularly with regard to the most important decisions affecting the future of Europe.

4. **ECONOMIC AND MONETARY UNION**

The establishment of economic and monetary union is one of the central pillars of the Treaty. Parliament wished this to be based on democratic control in the context of the Community system, which is far from being the case.

5. **THE COMMON FOREIGN AND SECURITY POLICY**

The Treaty opens up a number of important possibilities in the area of foreign and security policy but, contrary to the wishes of Parliament, it allows the unanimity rule to continue and does not make the CFSP part of the Community's institutional system.

The EP, on the other hand, is given a role of which it will make the fullest use. Article J.7 of the Treaty states that the Presidency 'shall consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and shall ensure that the views of the European Parliament are duly taken into consideration'.

6. **COOPERATION IN THE FIELDS OF JUSTICE AND HOME AFFAIRS**

Against the wishes of Parliament, this is not incorporated in the Community system, but the very fact of its establishment constitutes an initial step in the right direction.

As in the case of the CFSP, the Presidency has to consult the EP.

II. THE INTERINSTITUTIONAL AGREEMENTS

Several reports by the EP were instrumental in achieving the interinstitutional agreement of 25 October 1993 : Mrs Rosy BINDI (PPE, I) on the ombudsman - Mr Carlos BRU PURON (PSE, E) on codecision - Mr François MUSSO (RDE, F) on committees of inquiry. (The latter is under negotiation).

1. TRANSPARENCY AND DEMOCRACY

In the matter of transparency and democracy the agreement gives every citizen access to information on the institutions' decisions. The EP called successfully for the Council to publish the results of its votes, giving details and an explanatory statement for each delegation. This is very important, since it allows everyone to know exactly what each State is saying and doing.

In order to make Community texts more accessible, the institutions have undertaken to publish them in a single document once the final decision has been taken. Also, subject to considerations of confidentiality, the institutions have undertaken to make their documents available.

2. THE SUBSIDIARITY PRINCIPLE

In order to make it easier to comply with the subsidiarity principle, whereby the Community acts only where action at national level would not be more effective, the agreement commits the EP, the Council and the Commission to justify their decisions on the basis of this principle and to ensure, within the framework of the procedures laid down in the Treaties, that the acts adopted comply with it. The Commission will publish an annual report assessing compliance with the principle.

3. THE CODECISION PROCEDURE

The agreement sets out a number of rules governing the holding of meetings of the EP/Council/Commission Conciliation Committee (see table ...). It establishes principles whereby the procedure can be implemented with due regard for the prerogatives of the institutions. It was necessary to add to the provisions of the Treaty, which were not sufficient on their own to ensure that the procedure would function efficiently.

4. THE EUROPEAN OMBUDSMAN

It will be recalled that under the Treaty the ombudsman is appointed following an opinion from the Commission and with the approval of the Council. The agreement ensures that procedures for appealing to the Ombudsman are simple, in order to guarantee all citizens access to him: the EP has also been successful in ensuring that the possibilities of secrecy being imposed upon him by the institutions and the Member States in the conduct of his investigations are limited.

III. OTHER INSTITUTIONAL MATTERS

1) The number of MEPs and the uniform electoral procedure

In a resolution of October 1992 Parliament adopted the report by Mr De Gucht concerning the number of seats in the European Parliament in the light of German unification and enlargement.

For the first time a European Council, the Edinburgh Council of December 1992, adopted in its entirety an EP proposal, namely the proposal raising the number of seats from 518 to 567 (report by Karel De Gucht (LDR, B)).

| | |
|----------------------------|-----------------------------------|
| Belgium : 25 instead of 24 | Ireland : unchanged (15) |
| Denmark : unchanged (16) | Italy : 87 instead of 81 |
| Germany : 99 instead of 81 | Luxembourg : unchanged (6) |
| Greece : 25 instead of 24 | Netherlands : 31 instead of 25 |
| Spain : 64 instead of 60 | Portugal : 25 instead of 24 |
| France : 87 instead of 81 | United Kingdom : 87 instead of 81 |

The national ratification procedure is not yet finished in all the Member States.

The Brussels European Council of December 1993 also adopted the European Parliament's proposals regarding the countries applying for membership (Austria, Finland, Norway and Sweden).

Austria: 20
Sweden: 21
Finland: 16
Norway: 15

On the other hand, the European Council did not comply with the European Parliament's wish that the June 1994 elections should take place in accordance with a uniform electoral procedure.

2) The right to vote and stand as a candidate in European Parliament elections

In a resolution of 17 November 1993 the European Parliament adopted the report by Mr Froment-Meurice. The General Affairs Council of 6 December 1993 adopted the proposal for a directive allowing any citizen of the Union who so wishes, in accordance with the wishes of the European Parliament, to vote and stand as a candidate in European Parliament elections.

The European Parliament thus achieved something for which it had been calling for many years.

IV. WIDENING AND DEEPENING THE EUROPEAN UNION

This is a particularly important topic, as membership negotiations are currently under way and the future of the European Union is under consideration.

The EP defined its strategy in January 1993 in the report by Mr Klaus HÄNSCH (PSE, D) on the structure and strategy for the European Union with regard to its enlargement and the creation of a Europe-wide order.

On the subject of enlargement, the EP reaffirmed in a resolution adopted on 17 November 1993 that any enlargement must be accompanied by the institutional changes necessary for the smooth running of the Union and that they should be incorporated in the accession Treaty. The steps to be taken should include an improvement in the system of voting by a qualified majority in the Council and replacing unanimity with a superqualified majority (votes: ...). Each Member State must be able to hold the Presidency, with balanced troïkas, each of them including at least one of the five most highly populated Member States. To date the European Council has adopted the last of these proposals (December 1993).

The EP is calling for the codecision procedure to be extended to cover all acts for which the Treaty still prescribes the cooperation procedure.

In a resolution adopted on 10 February 1994 (report by Mr Fernand HERMAN, PPE,B) the European Parliament noted with satisfaction the work of the Committee on Institutional Affairs which led up to the draft Constitution of the European Union. It calls on the Parliament which will be elected in June 1994 to continue the debates on the European Constitution, taking account of the contributions of the national parliaments and public opinion in the Member States and applicant States (see Info Memo No. 8 of 25 January 1994)

In early 1994 the Greek Presidency proposed that a committee be nominated by the Council to prepare these institutional changes, which are scheduled to be introduced in 1996. The EP intends to be associated with it.

N.B.

From the beginning of its term of office the European Parliament has adopted a strategy embodied in the reports by Mr David MARTIN (PSE, RU) on the Intergovernmental Conferences and Mr Fernand HERMAN (PPE, B) on the Constitution of the European Union.

In preparing the negotiations on the Maastricht Treaty the EP adopted a number of proposals set out in the report by Mr MARTIN, (22 November 1990), as well as in those by Mrs Marie Adelaïde AGLIETTA (V, I) on parliamentary assent (25 October 1990), Mrs Rosy BINDI (PPE,I) on citizenship (21 November 1991), Mr Jean-Louis BOURLANGES (PPE, F) on the nature of Community acts (18 April 1991), Mrs Maria Louisa CASSANMAGNAGO CERRETTI (PPE, I) on the Economic and Social Committee (21 November 1991), Mr Maurice DUVERGER (PSE, I) on Parliament's relations with the national Parliaments (10 October 1991), Mr Valéry GISCARD D'ESTAING (PPE, F) on subsidiarity (21 November 1990) and Mr Panayotis ROUMELIOTIS (PSE, GR) on the powers of the Commission (13 December 1990).

SCOPE OF THE EUROPEAN PARLIAMENT'S NEW POWERS AND TABLES SUMMARIZING ARTICLES 189b AND 189c

1. EFFECTS ON THE POWERS OF THE EUROPEAN PARLIAMENT OF THE TREATY ON EUROPEAN UNION

The entry into force of the Treaty on European Union on 1 January 1993 brought about profound changes in the decision-making structures of the Union.

To help the reader to appreciate better the impact of the EP's new powers, the various areas in which the powers of the EP may be exercised are set out below. This note was drawn up in collaboration with the Committee on Institutional Affairs.

I - CODECISION (Article 189b)

The table which follows will show that throughout the procedure there is a real dialogue between the EP and the Council. Its aim is to achieve agreement between the two institutions. The procedure is a complex one because the Member States did not wish the two institutions to be placed on an equal footing. One thing is certain, on the other hand: no legislative text can come into being without the agreement of the European Parliament. If there is disagreement in the EP/Council Conciliation Committee the EP still has the option of rejecting the Council's text by a majority of its members. The proposal in question is then deemed not to have been adopted. In this extreme event the last word therefore rests with Parliament. If there is agreement in the Conciliation Committee, however, a draft is drawn up jointly by the two institutions.

- freedom of movement for workers: Article 49 : in particular, by ensuring close cooperation between national administrations, by setting up the machinery to bring offers of employment into touch with applications for employment by eliminating administrative and legislative obstacles to freedom of movement.
- freedom of establishment: Article 54 (general programme for the abolition of existing restrictions on freedom of establishment) - Article 56(2) (directives for the coordination of the provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals) - Article 57(1) (directives for the mutual recognition of diplomas and certificates) - Article 57(2) (access to the pursuit of activities as self-employed persons, where this does not involve changes to a principle of national law).
- services : Article 66 (same provisions as in the case of freedom of establishment).

- internal market:

* Article 100a (approximation of the provisions laid down by law, regulation or administrative action having as their object the establishment and functioning of the internal market)

* Article 100b (equivalence of national provisions concerning the internal market)

- education: Article 126 (incentive measures, excluding any harmonization of the laws and regulations of the Member States)
- culture¹ : Article 128 (incentive measures, excluding any harmonization of the laws and regulations of the Member States in the area of culture)
- health: Article 129 (incentive measures, excluding any harmonization of the laws and regulations of the Member States in the area of health)
- consumer protection: Article 129a (measures to support the policy of the Member States in this area)
- trans-European networks: Article 129c (guidelines covering the objectives, priorities and broad lines of action, as well as identification of projects of common interest)
- research (1) : art. 130i(1) (multiannual framework programme setting out scientific and technological objectives, indicating broad lines of action and fixing the amount and detailed rules for Community financial participation)
- environment : Article 130s (general action programmes concerning areas other than those set out in the treaties)

¹ In this area Council decisions must be taken unanimously (in other areas decisions are taken by qualified majority).

II. PARLIAMENTARY ASSENT

There has been a very considerable widening of Parliament's powers. In the case of the electoral procedure (Article 138) and, as already provided for in the Single European Act, of accessions (Article O), the EP must give its assent, acting by an absolute majority of its component members. In other areas assent is given by a majority of those voting.

- citizenship: Article 8a (provisions to facilitate freedom of movement and residence for citizens)
- Structural Funds: Article 130d (tasks, priority objectives and organization of the Structural Funds)
- Cohesion Fund: Article 130d(2) (setting up of a Cohesion Fund)
- electoral procedure: (without prejudice to national ratification): Article 138.
- international agreements (Article 228): accession by new States, association agreements and agreements establishing an institutional framework of cooperation (e.g. the GATT agreement), agreements having important budgetary implications and those entailing amendment of an act adopted under the codecision procedure. For the remaining areas, other than that covered by Article 113(3) (the common commercial policy), the Treaty provides for consultation of the European Parliament.
- Economic and Monetary Union:
 - * specific tasks of the European Central Bank concerning supervision: Article 105(6)
 - * amendment of the protocol on the Statute of the European System of Central Banks (ESCB): Article 106(5).

III. COOPERATION PROCEDURE (Article 189c)

The procedure described in this section (see table) is that set out in the Single Act. Under this procedure, unlike the codecision procedure, the EP cannot obstruct the Council's final decision. When the EP rejects the Council's common position by an absolute majority of its members the Council can override this, acting unanimously on a second reading.

In this case, therefore, the EP does not truly take part on an equal footing in the process of codecision. However, the procedure instituted by the Single Act has enabled the EP's point of view to be taken into account on many occasions. Many amendments have been made to final Council texts as a result of this dialogue between Parliament and the Council, with the active participation of the Commission. The reader will see evidence of this in the summary report by Committee to be published later.

New areas of application for the cooperation procedure have been introduced by the Treaty on European Union and the Agreement on Social Policy concluded between eleven of the Member States:

- non-discrimination : Article 6 (rules to prevent discrimination on grounds of nationality)
- transport : Article 75(1) (common rules applicable to international transport, conditions under which non-resident carriers may operate transport services within a Member State, improving transport safety and any other appropriate provisions)
- social fund: Article 125 (implementing decisions)
- vocational training: Article 127 (measures to contribute to the achievement of the objectives of the Treaty, excluding any harmonization of the laws and regulations of the Member States)
- trans-European networks: Article 129d (interoperability of networks, support for the financial efforts of the Member States)
- economic and social cohesion: Article 130e (implementing decisions relating to the European Regional Development Fund)
- research: Article 130o (implementation of multiannual framework programmes, by determining the rules for the participation of undertakings, research centres and universities, for the dissemination of research results, participation in programmes undertaken by several Member States)
- environment: Article 130s(1) et (3) - (action to be taken by the Community and implementation of action programmes in areas other than those covered by the Treaty)
- development cooperation: Article 130w - (measures and programmes to foster the economic and social development of the developing countries, their smooth and gradual integration into the world economy and the campaign against poverty)
- social: agreement concluded by eleven Member States (not signed by the United Kingdom): Article 2(2) - (minimum requirements on working conditions, health and safety of workers, consultation and information for workers, equal opportunities for men and women and integration of people excluded from the employment market)
- Economic and Monetary Union:
 - * rules for the multilateral surveillance procedure: Article 103(5)
 - * application of Article 104: Article 104a (prohibition of privileged access by public authorities to financial institutions)
 - * application of Article 104: Article 104b(2) (prohibition of granting of overdraft or other credit facilities to Community institutions or public authorities by the Central Bank and the national central banks)
 - * measures to harmonize circulation of coins: Article 105a(2)

IV. CONSULTATION

The EP is also to be consulted on a number of new areas, including:

- citizenship:
 - * Article 8b (right to stand in municipal and European elections)
 - * Article 8e (provisions to strengthen or add to the rights laid down in the Treaty)
- transport: Article 75(3) - (provisions liable to have a serious effect on the standard of living or employment in certain areas and on the operation of transport facilities)
- State aid: Article 94 (definition of types of aid which are compatible with the Treaty)
- approximation of laws affecting the internal market: Article 100
- entry and residence by foreign nationals: Article 100c (determining of third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States)
- industry: Article 130(3) - (specific measures in support of action taken in the Member States)
- cohesion: Article 130b (specific actions other than those carried out under the Structural Funds)
- research:
 - * Article 130i(4) (specific programmes)
 - * Article 130o (implementation of the multiannual framework programme)
- environment: Article 130s(2) - (provisions of a fiscal nature, measures concerning town and country planning and land use, measures affecting the choice between different sources of energy)
- Social policy agreement between 11 Member States, Article 2(3) - (social security and social protection of workers, representation and collective defence of their interests, conditions of employment for third-country nationals, financial contributions for promotion of employment, without prejudice to the provisions relating to the Social Fund)
- Economic and Monetary Union:
 - * revision of the Protocol on the excessive deficit procedure: Article 104c(14)
 - * adoption of the Statute of the ESCB: Article 106(6)
 - * exchange rate for the ECU: Article 109(1)
 - * appointment of the President, Vice-President and Executive Board of the ECB: Article 109a(2)(b)
 - * appointment of the President of the European Monetary Institute: Article 109f(1)
 - * rules governing consultation of the European Monetary Institute by the Council: Article 109f(6)
 - * other tasks of the European Monetary Institute: Article 109f(7)
 - * beginning of the third stage of EMU: Article 109j(2)
 - * beginning of the third stage of EMU (possibly 1 January 1999): Article 109j(4)
 - * international agreements on exchange rates: Article 109k(1)
 - * exchange rate policy vis-à-vis third-country currencies: Article 109k(2)
 - * Implementation of the Statute of the ESCB: Article 106(6) and Article 109l(1)
- CFSP (common foreign and security policy): (Article J.7). The Presidency consults the EP on the main aspects and basic choices of the CFSP and ensures that the views of Parliament are duly taken into consideration.
- justice and home affairs (Article K.6). The Presidency consults Parliament on the principal aspects of activities in the areas referred to in this Title of the Treaty and ensures that the views of Parliament are taken into consideration.

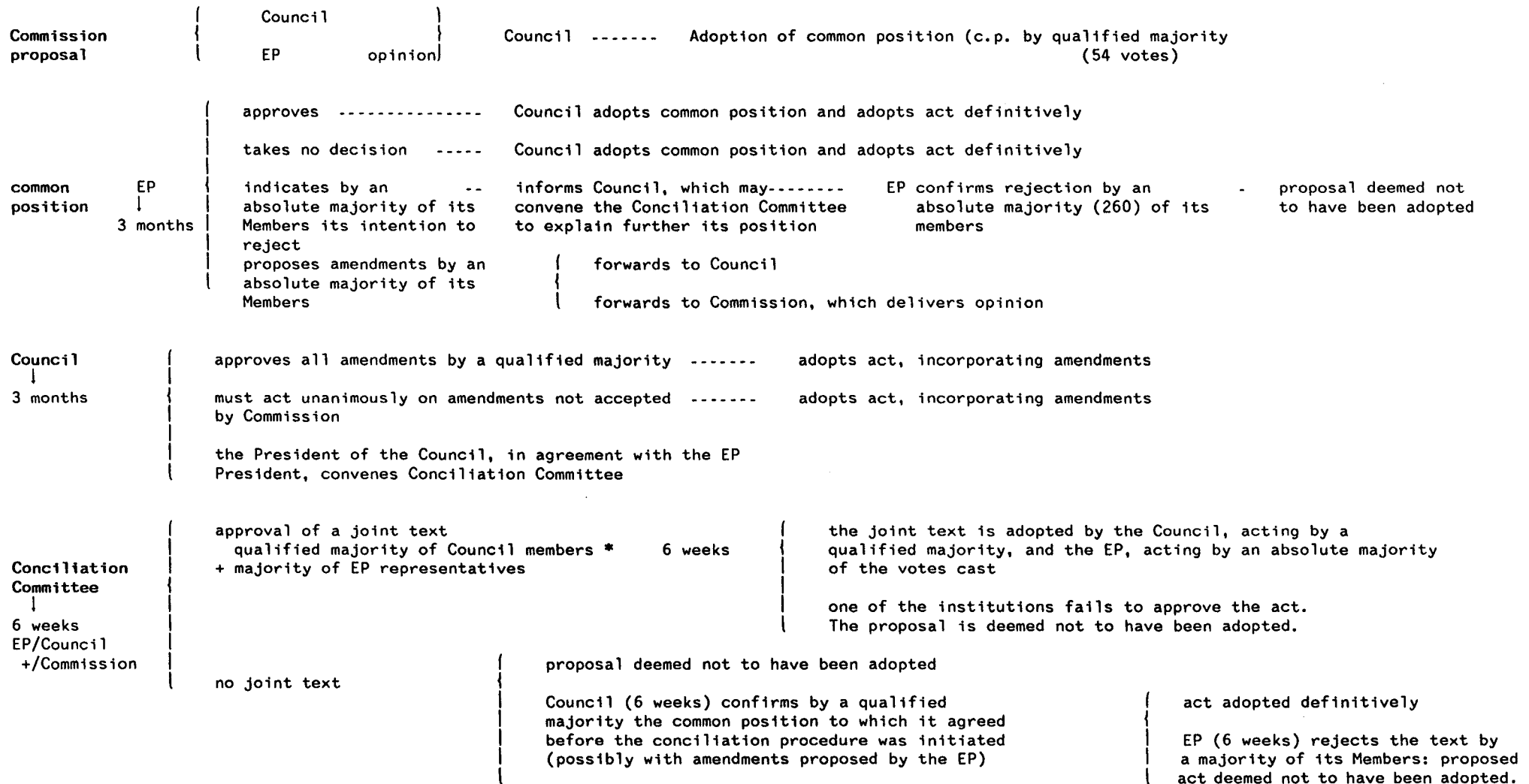
Consultation is compulsory in the latter two areas. They are of a political and non-legislative nature, like those provided for in the Community Treaties and set out below.

V. INFORMATION TO THE EUROPEAN PARLIAMENT

- capital movements and payments: Article 73g(2) - (measures taken by a Member State on grounds of urgency)
- broad economic guidelines: Article 103(2)
- report by the President of the Council and the Commission on the results of multilateral surveillance: Article 103(4)
- financial assistance to a Member State in serious difficulty: Article 103a(2)
- penalties for excessive deficits: Article 104c(11)
- central rate of the ECU: Article 109(1)
- presentation of an annual report and debate on the report presented by the President of the ECB: Article 109b(3)
- composition of the Economic and Financial Committee: Article 109c(3)

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CODECISION PROCEDURE (Article 189 B)
of the Treaty on European Union



* even if the Commission does not agree

ARTICLE 189 (c)
COOPERATION PROCEDURE - TREATY ON EUROPEAN UNION

| | | | | |
|-----------------------------------|------------------------|------------|--|--|
| First reading | Proposal Commission | EP opinion | the Council adopts a common position by a qualified majority (54 votes) | |
| | | | Approves the common position or takes no decision | the Council definitively adopts the act in accordance with the common position |
| Second reading Common position | EP | | Rejects the common position by an absolute majority (260 votes) | unanimity required for the Council to act on a second reading |
| 3 months | | | Proposes amendments by an absolute majority of its Members | |
| | | | | 1 month |
| | | | | The Commission re-examines its proposal and forwards it to the Council |
| | | | | 3 months |
| | | | | the Council adopts the re-examined proposal by a qualified majority |
| | | | | the Council amends the re-examined proposal or unanimously adopts the EP amendments not accepted by the Commission |
| | | | | the Council reaches no decision. The Commission proposal is deemed not to have been adopted. |

II. THE IMPACT OF THE EP ON THE RIGHT OF PETITION SHOWN THROUGH THE ACTIVITIES OF THE COMMITTEE ON PETITIONS

The two pages of introduction by Mrs Rosy BINDI (PPE,IT), Chairman of the Committee on Petitions, are followed by a series of examples illustrating the work of the committee. If there is one area in which the EP has had a direct impact on the daily life of every citizen it is petitions, through which the European Parliament has often achieved justice for citizens.

I. INTRODUCTION BY THE COMMITTEE CHAIRMAN, MRS ROSY BINDI (PPE, IT)

The period from 1989 to 1994 was decisive as regards both the European Parliament's direct relations with its electors and the development of the right of petition in the European Community. With the signature, followed by the entry into force on 1 November 1993, of the Treaty on European Union, the right of petition is now enshrined in the Treaties and has thus become an integral aspect of European citizenship (before this the right of petition was mentioned only in the rules of procedure of the European Parliament).

Under the Treaty on European Union, every citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right, individually or jointly with other citizens or persons, to address petitions to the European Parliament on a subject related to the Community's fields of activity and of direct concern to the petitioner.

For years the European Parliament has been calling for the legal basis of petitions to be consolidated, giving it the power to meet its obligation to respond appropriately to those who petition it. Another purpose was to increase the European Parliament's supervisory role over the activities of the European Community and to mobilize all of the resources at the Community's disposal to reply effectively to the petitions sent to it.

The Committee on Petitions - which was set up as a full parliamentary committee in 1987 - has long been endeavouring to make full use of the means available to it under the rules of procedure of the European Parliament to respond effectively to the petitions it receives.

During the period from 1989 to 1994 it has refined the machinery for cooperating with the Commission in the consideration of petitions. It has also associated the other parliamentary committees more and more closely in the treatment of petitions, enabling political replies to be given to questions of general interest raised by European citizens. A substantial number of petitions have featured, for example, in reports presented to Parliament, led to the tabling of resolutions or been the subject of opinions sent by the Committee on Petitions to the Council and the Commission.

Since 1990 the Committee on Petitions has also drawn up an annual opinion on the reports presented by the Commission to Parliament on the correct implementation of Community law in the Member States. Petitions thus constitute an important means of detecting cases of failure to apply Community law. For example, when private individuals suspect that building projects being undertaken in their country - a dam or a road, for example - do not comply with the obligations imposed by Community law on the environment, they often inform Parliament. In this way the Community learns of activities in the Member States which fail to comply with Community law.

This close collaboration with the Commission and the direct representations made by the latter to the Member States has often led to specific problems raised by petitioners being satisfactorily resolved; some Member States have also been prompted in this way to modify their legislation to bring it into line with Community law.

It must be stressed, however, that what usually happens is that an action is initiated under Article 169 of the EC Treaty to compel the Member State to comply with its Treaty obligations. However, these procedures take a very long time; the Committee on Petitions has protested vigorously to the Commissioners concerned and called on the Commission to act more speedily.

The powers of the Committee on Petitions are restricted, however, by the limits of the powers granted to the European Parliament under the Treaties, and the development of these powers is closely linked to the development of the Community itself.

Nevertheless, despite these obstacles, parliamentary supervision of the activities of the 'executive' has been strengthened through the medium of petitions. Ever closer links have been forged with the citizens whom Parliament represents and who have given it a mandate to act in their name and on their behalf.

This is proved by the significant steady rise in the number of petitions - about 4 000 in the period from 1989 to 1994, compared to a few hundred, or even a few dozen, in previous years -, as well as the number of people - about 6 million - who have signed joint petitions. The rise in the number of petitions has gone hand in hand, also, with a broadening of the range of issues raised. It should be noted, also, that nationals of third countries, even if they are not resident in the Community, can address petitions to the European Parliament.

The other important event to take place during this term of office has been the establishment by the Treaty on European Union of a new Community institution, the ombudsman, who will be empowered to receive complaints from any citizen of the Union or any natural or legal person residing in a Member State concerning instances of maladministration in the activities of the Community institutions or bodies (with the exception of the Court of Justice and the Court of First Instance acting in their judicial role); the Ombudsman will be appointed by Parliament, which will also lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

The Committee on Petitions has taken an active part in the work done by the EP on the regulations and general conditions governing the performance of the Ombudsman's duties. In its resolution on the activities of the Committee on Petitions during the 1992-1993 parliamentary year, the European Parliament defined the role of our committee with a view to ensuring cooperation between the two systems which together will form an effective means of defending the interests of citizens vis-à-vis the Community. We shall do our utmost to achieve harmonious relations with the Ombudsman in order to ensure that our task of defending the interests of European citizens is performed effectively.

II. EXAMPLES OF THE WORK OF THE COMMITTEE ON PETITIONS

The following examples will show that the Committee on Petitions has been able to resolve many of the issues raised by petitioners during Parliament's 1989-1994 term of office. Each case illustrates a question which has been raised and the solution to it.

Driving licences

Two petitioners, one French, the other British, were in possession of driving licences issued in their respective countries of origin, but had been living for more than three years in Germany. The German authorities refused to issue them with German licences, as the time during which a foreign licence could be exchanged for a German one had expired. Directive 80/1263/EEC on the issuing of a Community driving licence states that, as from 1 January 1983, Member States shall issue this document to licence-holders who move from one Member State to another; this exchange must in principle take place a year at the latest after the change of residence, at the request of the licence holder (Article 8 of the above Directive).

The Committee on Petitions contacted the Commission, which approached the German authorities. Germany agreed to change the national regulations then in force to allow licences to be exchanged by Community licence holders without any time limit. At the same time the Committee on Petitions was informed that the Commission had recently submitted to the Council a proposal for a directive on the driving licence intended to replace the directive in force at the time.

This new directive should provide a definitive solution to the problem of licence holders who move from one Member State to another, since it provides for mutual recognition of driving licences without any requirement for a new licence to be issued (Petitions Nos. 124/88 and 31/89).

Retirement pension

A request for a retirement pension made to the Italian authorities by an Italian national who had emigrated to the United Kingdom was not answered for four years. Following the action taken by the Commission, which had been asked for its views by the Committee on Petitions, the retirement pension was finally paid on a pro rata basis, together with back payments (Petition No. 114/89).

Recognition of diplomas

Several Belgian petitioners have complained about France's failure to recognize occupational therapy and physiotherapy qualifications obtained in other Member States. The action brought against France by the Commission under Article 169 of the Treaty for failure to meet its Treaty obligations led to a formal undertaking by the French authorities to bring the French laws governing recognition of qualifications of occupational therapists and physiotherapists into line with Community law (Petitions Nos. 198/86, 397/87, 270/88 and 43/89).

Family allowances

A Belgian national was working as a teacher in Belgium and living with his family in France. The family allowance for his son, which had been paid for six years, was suspended by the Belgian authorities, who also asked him to repay what had already been received, since the boy did not live in Belgium.

Following the action taken by the Commission, to which the Committee on Petitions had referred the matter, the family allowance was reinstated and back payments made (Petition No. 558/89).

Refunding of medical fees

An Italian national received treatment in a Belgian hospital, having submitted forms E 112 and E 113. The procedure for refunding medical fees set out in Community legislation was followed, except in the case of the laboratory fees, which in this case were high.

When the Commission approached the Belgian authorities it emerged that laboratory fees were not deemed to be refundable. The Belgian clinic was then ordered to rectify this situation in the case of all refunds currently being processed (including that of the petitioner), failing which the administrative authorities would take action against it (Petition No. 158/90).

Animal welfare

A British association submitted a petition signed by about a million people asking for the use of a donkey in a festival held each year in the small Spanish village of Villanueva de la Vera to be forbidden.

The Committee on Petitions, through the President of the European Parliament, informed the President of the Junta d'Estrémadure of this huge protest movement. The latter sent on a reply from the inhabitants of Villanueva de la Vera saying that the donkey was not ill-treated in any way. The signatories of the petition were informed of the content of this letter. This is a significant instance of dialogue between European peoples through the medium of a petition (Petition No. 380/90).

Sales monopoly

A French perfume distributor complained of monopolistic practices on the part of the manufacturers of certain well-known brands of perfume, as a result of which she - like many other distributors - was excluded from sales contracts. She referred in particular to a clause requiring that the distributor must carry a minimum number of brands featuring on a list drawn up by the manufacturers.

Following a general survey of the perfume industry in the light of the rules of competition, the Commission published two notices regarding the distribution contracts of two large perfume manufacturers, from which the clause in question had been removed. The petitioner cited the Commission's reply in contesting any refusal of authorization or termination of contract by her suppliers on the grounds that she had violated the clause in question (Petition No. 551/90).

Competition and designation of firms (fire sprinkler systems)

A German firm built warehouses fitted with fire sprinkler systems. The German Insurers Association (GIA) laid down binding directives within the Federal Republic of Germany governing the installation of such sprinkler systems; it had designated 31 German firms having the sole right to install them in the Federal Republic. The firm submitting the petition, which would have liked to give contracts to firms from other Member States, called on the European Parliament to consider its petition in the light of European Community competition law.

The Committee on Petitions notified the Commission, which informed the GIA that its directives governing firms which installed sprinkler systems were in breach of Article 85(1) of the EEC Treaty and would therefore have to be changed. The Commission also contacted the European Insurance Committee (EIC), which is currently harmonizing the rules on designation of assembly firms; this will resolve the problem set out in the petition (Petition No. 783/90).

VAT regulations

A Belgian national complained that the Belgian tax authorities were provisionally authorizing certain Belgian suppliers to invoice fuel supplied to foreign transport companies without charging VAT, while other suppliers, including himself, were not authorized to do so.

Following the action taken by the Commission, to which the Committee on Petitions had referred the matter, the Belgian authorities allowed the petitioner to operate the special system, thus enabling him to compete with the other suppliers on an equal footing (Petition No. 199/91).

TAX RELIEF ON IMPORTED PROPERTY

A Danish couple had bought a house in Spain and furniture for it in Spain and Denmark. The Spanish authorities required a bank guarantee of Dkr 125 000 from the petitioners before they would give them permission to import into Spain the furniture bought in Denmark. The Spanish authorities froze this sum and would only have refunded it if the petitioners had applied for permanent residence in Spain. The petitioners, who only wished to spend the winter months in Spain, asked the Committee on Petitions for help.

The Committee on Petitions was convinced that the decision by the Spanish authorities was in breach of Council Directive 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals, and informed the Commission of this. After the Commission had taken up the matter with the Spanish authorities, the latter changed their administrative practices and the bank guarantee was refunded (Petition No. 370/88).

Transfer of allowances to another Member State

- A petitioner of Spanish nationality living in Belgium received a disability allowance from the Belgian Prévoyance Sociale. After he married and moved to Spain the allowance was withdrawn.

- At the request of the Committee on Petitions, the Commission interceded with the Belgian authorities on behalf of the petitioner with a view to having the disability allowance paid in one Member State 'exported' to another. When the Belgian authorities refused to 'export' the allowance, the Commission initiated a procedure against them under Article 169 of the EEC Treaty for violation of their Treaty obligations, as a result of which the allowance was paid to the petitioner in his country of residence. It should be noted, however, that following the entry into force on 1 June 1992 of Regulation (EEC) No. 1247/92, this type of social security benefit can no longer be 'exported' (Petition No. 20/89).

- An Italian petitioner, who had worked in Belgium, continued to receive family allowances because of disability after his return to Italy in 1972. However, as he also drew a pension in Italy after this date, the Belgian organization stopped payment of the allowances and demanded repayment of the allowances received.

The Commission, when asked for its opinion on this matter, took the view that the behaviour of the Belgian authorities was in breach of the Community rules. After the Commission had taken up the case with the Belgian authorities, the latter took steps to ensure that the Belgian social security body implemented the provisions of Regulation (EEC) No. 1408/71 in accordance with the case law of the Court of Justice (Petition No. 27/88).

Discrimination on grounds of nationality

A German national complained that in Greek museums foreigners had to pay higher admission charges than Greek nationals, despite the fact that a great deal of restoration work in Greece is funded by the Community.

The Commission, when asked for its opinion on this matter, took the view that discrimination such as this between Greeks and nationals of other Community Member States was in breach of Community law. It therefore initiated an action against Greece under Article 169 of the EEC Treaty. As a result of this procedure the Greek authorities changed the law on this point, so that nationals of other Member States are now charged the same entry fee to Greek museums as Greek nationals (Petition No. 172/87).

Exporting vehicles

A petitioner living in Luxembourg sold his car, which was licensed in Luxembourg, to his sister in Spain and filled in the forms required by the Luxembourg authorities, which were not however accepted in Spain. When a vehicle licensed in Luxembourg is exported, the Luxembourg authorities keep the original of the logbook and issue a certified copy; in Spain, however, certified copies of this document are not accepted.

- After the Commission - which took the view that the refusal of the Spanish authorities to accept the document was incompatible with Article 30 of the EEC Treaty - had taken action, the Spanish authorities admitted that the complaint was justified (Petition No. 305/90).

Right of residence after being in employment

The Committee on Petitions referred to the Commission the case of a petitioner of Greek nationality, who had been resident in Belgium for a very long time and, now practically blind, had been refused permission to remain in Belgium because he had failed to carry out the formalities required by the law.

The Commission made representations to the Belgian authorities with a view to regularizing the petitioner's situation by applying Regulation (EEC) No. 1251/70 on the right of workers to remain in the territory of a Member State after having been employed in that State. The steps taken by the Commission resulted in a decision by the Belgian authorities to issue the petitioner with a 5-year, automatically renewable residence permit (Petition No. 480/89).

Funding for the development of the natural environment

Following an international congress held in Luxembourg, the International Office for Gardens for Workers and their Families sent a resolution to the Committee on Petitions calling, *inter alia*, for ideological and financial support for the protection and development of the natural environment.

After the Committee on Petitions had brought the matter to the attention of the Commission, the latter decided to support two proposed projects by this organization to the amount of ECU 22 000. These were the organization of a symposium on the value of gardens and the environmental responsibility of gardeners and an allotment pilot project in Nivelles, Belgium (Petition No. 508/89).

Change of registration and road tax

A petitioner had left Belgium in 1984 to take up permanent residence in Luxembourg. She registered her car in the Grand Duchy within the statutory period and, at the same time, posted her Belgian number plate to the Belgian vehicle registration authorities. She nevertheless received a demand from the Belgian Ministry of Finance for payment of road tax for the period 1985-1986 for her car, which had been registered since 1984 in Luxembourg and for which she had already paid taxes in Luxembourg.

As a result of the representations to the Belgian authorities made by the Commission, which the Committee on Petitions had notified, the Belgian authorities decided to drop their request for payment of road tax on the petitioner's vehicle and to take the matter no further (Petition No. 495/90).

Medical treatment in another Member State

A Greek national who had suffered very serious burns as a result of an accident in Greece was rushed to a hospital abroad since the necessary treatment was not available in Greece. As his treatment turned out to be lengthy and expensive, the Greek insurance fund refused to issue him with the form (E 112) needed to continue his treatment abroad; in addition, it demanded that he repay a large sum on the grounds that his hospital fees had exceeded the annual limit for reimbursement of hospital fees.

The Commission was called on to act and took the view that in this case the decisions of the Greek insurance fund were in violation of Community law (Regulations (EEC) Nos. 1408/71 and 574/72). The Greek authorities then called on the insurance fund concerned to comply with the regulations applicable to this case and later informed the Commission that the petitioner had been granted his full rights (Petition No. 223/91).

VAT refunds

A German firm had applied in the course of its business activities in Belgium for VAT refunds totalling FB 245 066. For years the Belgian tax authorities neglected to process these applications.

As a result of repeated action by the Commission, to which the matter had been referred by the Committee on Petitions, the Belgian authorities ordered the money to be refunded to the petitioner. The Commission also gave an undertaking to the Committee on Petitions that it would take all the measures within its power in the event of similar unjustified delays occurring in the future. (Petition No. 562/91).

The right to unemployment benefits in another Member State

A Belgian petitioner went to the Netherlands to seek employment, taking a form E 303 with him. After a short period in employment, he was unemployed for a few days, after which he found work with another employer in the Netherlands. He complained to the Committee on Petitions that he had been unable to obtain the unemployment benefit to which he was entitled for the period when he was out of work.

As a result of action taken by the Commission, the relevant body in the Netherlands undertook to pay the petitioner the benefits to which he was entitled for his period of unemployment (Petition No. 64/92).

Equal treatment in respect of unemployment benefits

A German petitioner had been in paid employment in Italy under the terms of a contract drawn up under Italian law. He lost his job in 1991 and complained to the Committee on Petitions about the unemployment benefit paid to him by the Italian institution, which amounted to only 20% of his final gross salary, whereas the Italian nationals who had also lost their jobs received unemployment benefits amounting to 80% of their final gross salary.

The matter was referred by the Committee on Petitions to the Commission, which approached the Italian authorities. The latter acknowledged that the unemployment benefit initially paid to the petitioner did not comply with Community law, particularly with the principle of equal treatment. The Italian authorities immediately took all necessary steps to restore the petitioner's entitlement (Petition No. 105/92).

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